

BOARD OF MAYOR AND ALDERMEN

May 3, 2005

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll. There were thirteen Aldermen present.

Present: Aldermen Roy, Gatsas, Guinta, Sysyn, Porter, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault and Forest

Absent: Alderman Osborne

Mayor Baines stated I would like to begin this meeting this evening with a Proclamation. This is the 36th Annual Municipal Clerks Week, May 1 through May 7, and all of us who work in government recognize the importance of the City Clerk's Office all the way, obviously, from taking minutes of the meetings, dealing with constituent services, providing for good voting procedures and an open government and people like Carol keeping us all on track to make sure we do the right things at meetings, they perform many, many tasks. And, so it's with that spirit of appreciation that I present this Proclamation this evening.

PROCLAMATION 36th Annual Municipal Clerks Week May 1 through May 7, 2005

Whereas, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

Whereas, the Office of the Municipal Clerk is the oldest among public servants; and

Whereas, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of

government at other levels; and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

Whereas, the Municipal Clerk serves as the information center on functions of local government and community; and

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations; and

Whereas, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk;

NOW, Therefore, I, Robert A. Baines, by virtue of the authority vested in me as the **Mayor of the City of Manchester** in the **State of New Hampshire**, do hereby recognize the week of May 1 through May 7, 2005, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerk, Leo R. Bernier and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

s/Robert A. Baines, Mayor
May 3, 2005

An honor for me on behalf of the Board of Mayor and Aldermen and the citizens of Manchester I present this Proclamation to Leo Bernier. Congratulations, Leo.

Clerk Bernier stated I just want to thank the Board of Aldermen and the Mayor for supporting the City Clerk staff...there are a lot of people as you know that work with you and I need to recognize them and one of them is Matthew Normand and Lisa Thibault and Paula LeBlond-Kang and the support staff that we share with you and I just want to thank you very much. And, Carol.

Mayor Baines stated the reason why I was not here earlier this evening...you would have been very proud to be with me in Concord today. I participated in the second annual program by the Old Man of the Mountain Legacy Foundation. A program that's been developed to recognize the commitment of the great traditions of the State of New Hampshire exemplified by the Old Man of the Mountain and I'm proud to say that the City of Manchester was recognized and we're actually going to get the actual words that were read by the City Manager from Littleton...Littleton received it last year...they talked about the revitalization, the renaissance of the City of Manchester. They talked about the restoration of the old buildings and the preservation of our history from the Millyard, the revitalization of Elm Street, to the arena, to the baseball stadium, to the riverwalk, too generally the whole renaissance that's taking place here in the City of Manchester. So, on behalf of all of you that have served in government past, present and those who will come in the future they should recognize that on this occasion our great City received this award for the work that we've done all of us building on the great traditions of the past, the greatest City that we should all be very proud of. So, certainly I have had many proud moments as Mayor of the City of Manchester but to stand there today in front of all people from all over the state recognizing the great things that are happening in the City of Manchester we were presented with this Profile Award and I accept it on behalf of all of you and the great citizens of our City and especially the people who built our City so many years ago. They came to this special place on the Merrimack and built this City with strength and determination and put that trust in all of us who sit here today to keep it strong, vital and productive for all of the citizens who rely upon us to make great decisions. So, congratulations to all of you and the citizens of Manchester for this Profile Award which is really a tribute to all the citizens in the City of Manchester. So, congratulations to all.



4. Presentation by Attorney David Nixon relative to the William B. Cashin Senior Activities Center fundraising efforts.

And, now, I would like to introduce two great friends of city government...Attorney Dave Nixon and former Alderman Bill Cashin to update us on the fundraising activities for the Senior Activities Center. While you're coming up...for those of you who have been over to the center and see the two pictures that will hang here forever...Bill, you're now hanging in two places of city government...City Hall and the Senior Center...and, the wonderful work that's been going on to raise money...Barbara if you could come up as well. This has been a team effort...a lot of us have been out in the community raising money to make sure that the seniors have this center.

Attorney Dave Nixon stated thank you ladies and gentlemen, Mayor and Board of Aldermen. I am pleased and honored to be here. It's the pleasure and honor of Barbara Vigneault, Director of Elderly Services, former Alderman Bill Cashin and I to present to you an updated report on the status of the Senior Center fund. The first think we want to do is honor our most recent recorded contributor...St. Mary's Bank and Peter Madden from St. Mary's Bank is here to acknowledge our thanks and appreciation.

Mayor Baines asked Peter could you please stand and be recognized.

Attorney Nixon stated I'm also pleased to announce that Alderman Paul Porter who doubles as a golfer and a member of the Manchester Rotary Club announced to me tonight that the Manchester Rotary Club's additional contribution of \$5,000.00 is payable at this time and I told him to send it to my office and I would deduct my legal fee and send the rest to Barbara. Finally, on this subject, we are at this point in the red zone as I say in my letter, which you have before you. We

have raised \$365,569.31 toward our goal of \$500,000.00. I apologize for the fact that I've been kind of out of commission for a couple of three months and I want to express my appreciation to all of you and the Mayor and Ted Gatsas in particular for personally visiting and extending their condolences in what I've been through. The next fund raising effort is the annual golf fund raising tournament and our first meeting is next Thursday, May 12th at our office at seventy-thirty in the morning...coffee and donuts provided compliments of Robert E. Raiche, Sr. who doesn't know it yet...he's the Co-chair this year with Louis Craig of the tournament, he doesn't know that yet either. We're going to keep going on this project till it's completed and then we're going to keep going after that. Your help, suggestions and of course contributions are most welcome. Thank you again all of you...George Smith, Mike Lopez and Armand Forest and Paul Porter particularly the Board of Mayor and Aldermen who have been such a help as has been the Mayor and also thank you to Barbara Vigneault and thank you honorable Co-Chair Bill Cashin who made a substantial contribution to the fund and keeps asking me who do we see next and Billy is going to be on the road soon. Thank you very much. That's that report but I'll answer any questions that anyone has at this time.

Mayor Baines asked are there any questions on fundraising activities? On behalf of the Board I know we're very appreciative of the substantial efforts and also the difficult times that you've been through, Dave, and as you know our thoughts and prayers have been with you throughout this ordeal.

Attorney Nixon stated thank you very much, Mayor. The next thing you have before you is an update on the City of Manchester and City of Rochester case challenging the constitutionality of SB 302 which somehow or other in the enrolled bills process which is supposed to relate to technical errors, corrections and so forth changed the bill around so that somehow or other \$6 million that was

owed to the two cities by the original legislation went elsewhere. We have filed this Motion for Reconsideration, which is standard procedure in regard to losing cases in the Supreme Court. As I indicate in my letter, however, these things are not usually granted so don't set your farm on the outcome but we will of course keep you apprised of the final results. As I indicate one could speculate about the courts reasoning which is not clear to me in its decision suffice it to say that I have not seen a situation where the same court has deferred to the legislature to this degree and I'm sorry that we didn't carry the ball for you more successfully and finally I understand that MCTV has the telephone number of the Elderly Affairs Center and Senior Center somewhere on the screen so if any of you not want to bet on the Red Sox tonight and anybody that's seeing/hearing this you're welcome to send your contributions to Barbara or to me and I'll make sure that she gets at least two-thirds of whatever you send in...make the checks payable to the Manchester Senior Citizens Center. I admire the way you sit so patiently and listen to all the people who sit here. Thank you.

Mayor Baines asked any new updates, Barbara...things I know are going well at the new center.

Ms. Barbara Vigneault, Director of Elderly Services, stated things are going very well. The seniors really enjoy being at the new facility. We are able to do programming simultaneously and our numbers have increased and it's really a wonderful, wonderful opportunity for our seniors and I wanted to express our gratitude for all the hard work all of these people have done on our behalf...the Aldermen, Bill Cashin and Attorney Nixon...we're really trying to raise funds to make sure that the project is a success and we really have show a great deal of community spirit throughout the whole thing and to see that Manchester is behind the Senior Center we have found that very gratifying.

Mayor Baines stated I was thinking about just an update on the numbers because I know it's been quite substantial. So, if you could somehow quantify that I think we'll all be surprised by that.

Ms. Vigneault stated the campaign total is \$365,569.31 of the \$500,000.00.

Mayor Baines asked are there any questions from members of the Board? Thank you very much.

5. Report of the Committee on Lands and Buildings:
Recommending that the Black Brook Maxwell Pond Stream Restoration Proposal be referred to the full Board of Mayor and Aldermen for presentation.

Alderman Roy moved to accept, receive and adopt the report of the Committee on Lands and Buildings. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Mayor Baines asked if you would come up and introduce yourselves to the Board, please.

Mr. Steve Landry stated I work for the Department of Environmental Services (DES) and Jim McCartney with Trout Unlimited. Basically, we're here this evening to speak about an on-going project and restoration effort that's been on-going since 2001 and I would just like to point out as you receive the handouts a full project summary has been prepared for you on the first page and I think that's a very good summary for this. I'll try to briefly update the full Board. Basically, the City of Manchester is faced with a decision at the current time for the outcome and the future of the dam that exists at Maxwell Pond...that is the Maxwell Pond

Dam, the DES Dam Bureau has issued a letter to the City requesting that that structure be repaired. That structure which was created in 1900 effectively created Maxwell Pond...the dam was created for the purpose of ice harvesting on Maxwell Pond. That dam is now in disrepair and in need of repairs. The estimated cost for repairs to the City is about \$60,000 and that is in addition to the annual maintenance cost that the City must put forward and that's about between \$5,000 and \$6,000 a year for annual maintenance. So, basically, this is an opportunity for restoration and revitalization which seems to carry quite nicely with the award that the City was just granted today actually. This is an opportunity to do restoration and revitalization of Black Brook and basically I think Jim and I could talk to you quite extensively and we've presented to the Lands and Buildings Committee on a number of occasions, we've had several public meetings and we've had written testimony and public comments and we have written support for a restoration project at this site from NH Fish and Game, U. S. Fish and Wildlife, the Sierra Club, Trout Unlimited, Manchester Fly Fishing Club, the Manchester Conservation Commission, Amoskeag Fishways personnel...all of these organizations and many residents are in favor of a restoration opportunity that would return Black Brook to a free flowing stream that reaches the Merrimack River. So, basically, what we're talking about is an ecological restoration project but also a decision that really should be made based on economics on the City's behalf. We have an opportunity as a State agency and the City of Manchester's Urban Ponds Restoration Program to basically provide 100% funding for dam removal and stream restoration. There has been a lot of discussion about restoring the pond to its historic nature, a lot of sediment has accrued and accumulated behind the Maxwell Pond Dam over the years and basically we looked at the cost of performing a dredging operation on Maxwell Pond and that cost figure came back at about \$1.3 million to restore the pond to its historical depth which was when it was created by damning. So, really, what you should take into consideration is the economics behind this decision that is in front

of you now...\$60,000 to repair and maintain this structure that is in disrepair, \$1.3 million to dredge Maxwell Pond to return it to a depth of 8 feet and return it to the depth that it once had in 1900 for zero cost to the City of Manchester through federal grants and state funds and the City of Manchester Urban Pond Program can do a dam removal and stream restoration project at no cost to the City of Manchester. So, I think I would just like to stress the economics of this decision that is before you. I think I would let Jim address any of the other ecological benefits that may be out there that I may have overlooked.

Mr. Jim McCartney stated I think Steve has really hit the nail on the head and there's not a whole lot that I can add to it. Bottom line...I think...the decision that's before you is that the dam, at this point in time, presents both a financial and a safety liability for the City. There's a real opportunity to take advantage of grants and foundation monies that are available as Steve mentioned through the state, through the federal government as well as through various foundations. And, to really return the Maxwell Pond area...the City park that's there to an amenity to the City. At this point in time I think there's a lot of folks that don't necessarily view it that way any longer and restoration of the brook, removal of the dam and associated work I think could really create a significant amenity for the community in that neighborhood. Trout Unlimited is clearly interested in the project due to the ecological benefits of returning three upstream and downstream passage through that reach and there are a number of other organizations that share a similar perspective but I think what it really boils down to for the City is how best this is going to be an amenity for the City and how the City's going to look after that for the long term. The dam...even if it's repaired and the pond dredged at this point in time will again become a liability for the City as additional sediment makes its way down Black Brook.

Mr. Landry stated I think I'll just conclude with the thought that obviously Jim and I work in the restoration realm and we obviously see this is a great restoration opportunity. One of the beautiful things about this opportunity at Maxwell Pond is that the City is the sole abutter of all the property around the pond. Typically, when we work on projects of this nature we're dealing with 30, 50, 60 land abutters and there's a lot of consensus that needs to happen before we can move forward. But, obviously, the City of Manchester has just been recognized for your leadership in revitalization and restoration efforts for infrastructure and public places and maintaining historical places in the City and doing a wonderful job at that and I think this is a great opportunity for the Queen City to establish another notch in the leadership role in this state and in the region and show that you indeed respect historical resources but in this case would take a step forward and show the rest of the state that you indeed respect the fact that we need to return some of our natural resources to their original state and the original state isn't Maxwell Pond, in our opinion, Maxwell Pond was created by an artificial structure the natural state is a free flowing stream and that is Black Brook and to reconnect that with the Merrimack River above the Amoskeag Dam would do a whole host of good and I think opening up further trails there would be much more of a public asset than it is at this current time. So, I think I will conclude with that.

Mayor Baines stated thank you for your presentation. Questions from members of the Board.

Alderman Thibault stated this has come before Lands and Buildings several times and I believe that the Committee figured that it was a big enough decision that it should come to the full Board for a final decision.

Mayor Baines asked did the Committee made a recommendation?

Alderman Thibault replied it was voted to send it to the full Board for a vote.

Mayor Baines stated but there's no recommendation from the Committee other than we don't want to make a decision. It would have been nice to get a recommendation.

Alderman Forest stated let me explain a little bit about Alderman Thibault's predicament. I've been involved in this for almost two years and I'm sort of caught between a rock and a hard place. Mainly, the State...the Conservation Commission Jen Drociak and Art Grindle pretty much got involved in this project about tearing the dam down. Now, we have a dam that has probably 20 feet of sediment behind it, it's actually been opened for about 30 years...Trout Unlimited has been up there and have done some studies on the fish and everything else and recommend that the dam be closed and the predicament that I'm in as an Alderman is it will cost about \$60,000 to remove the damn, bring it back to its original state and make it a free flowing brook again. The other problem is a lot of my constituents who live along Black Brook because of historical value and sentimental value want the project to be repaired which could cost the City about \$1 million to repair it. So, the decision for your Aldermen to make is are you willing to spend the \$1 million to restore it for historical value or let the state remove the dam and everything else. All I have to say is because of what my constituents want I will be voting against the project but I am talking to you in reference to what the State has recommended.

Alderman Porter stated I would just like to make a comment that if the dam is torn down once it's gone, it's gone forever and I do know that there are a lot of people down in that area that would like to keep that and I myself would like to see us keep the dam, have it repaired. As far as the dredging I don't know that it's necessary that it has to be done right away. I think if the dam were repaired and I

believe if Parks and Recreation had been given the proper monies over the years it probably wouldn't have deteriorated to a point where it has to be dismantled and I just wanted to throw that out. Let's keep in mind similar to the old railroad station which everybody kind of regrets tearing down, once it's gone it's gone forever. Thank you.

Mayor Baines asked is there a motion. Do you want to continue discussion.

Alderman Forest stated I realize it's my ward and I guess I'm going to have to be the one to make the motion one way or the other. My constituents want it left the way it is and the motion I would make is that we leave it the way it is. Alderman Porter duly seconded the motion.

Mayor Baines stated to clarify to all of us what that would mean "leaving it the way it is".

Alderman Forest stated the City would have to repair it and restore the dam.

Mayor Baines asked what would your recommendation be for a funding source on that. Would that be in next year's CIP since we've tied up all of our funds?

Mr. Robert MacKenzie, Director of Planning, replied it would have to be referred to next year at this point we would not have that money currently.

Mayor Baines stated would your recommendation be to refer it to next year's CIP.

Alderman Forest stated I would leave the expertise about waiting to next year. I don't think the dam...the condition that it's in can wait until next year, it's quite

dangerous...there's some holes there and I don't believe we can wait until next year it's quite hazardous.

Alderman Roy stated we've been through a number of comment sessions, public hearings and this has been on the Lands and Buildings agenda for almost two years now. The problem is the funding source. As Alderman Porter so eloquently stated if we don't choose to fully repair this and bring it back to its historic nature then we have to find a funding source that will keep a dam that's unstable from collapsing and the monies are there through the state programs, the presentations have been made about how much green space and how beautiful it would be once the restoration goes through. We've heard at the last public hearing four people that had an interest in it...keeping the dam. The public hearing before that which was in May of 2003 was one person who spoke in favor of keeping the dam. We either have to come up with a funding source or go ahead and make the hard decision to take it away and I do agree with Alderman Porter...Parks and Recreation has known about this problem since 2001 and there are still sinkholes around that area and it's fenced off for safety...somewhat unsightly and to have the dam there it becomes to me more of a blight on the neighborhood than it would be if it was opened back up to safe green space.

Alderman Shea asked what will change if the dam is removed...just briefly, what difference would it make as far as the situation there. Is it a major difference or a minor difference?

Mr. Landry replied each restoration project is going to have a different before and after effect, of course. The accumulation of sediment behind the dam that has been accumulating for the years obviously is going to be slowly released downstream and ultimately into the Merrimack...that can be a good thing and a negative thing. The good thing is that the stream channel below the dam is

completely starved of sediment and it's actually leading to more erosion of those steeply sided banks. A positive thing if the dam is removed is that through the fish collection work that we've done with Trout Unlimited and Fish and Game I think we only have 7 species of fish above the dam while we had 14 below the dam so obviously there's fish that would like to get up into Black Brook but they can't because they're hitting their head on a dam. You're obviously going to have less flooded or ponded area where the pond is now, however, the average depth in Maxwell Pond right now is three feet, so it's not really a fully-functional pond with deep water in it and it's not a great swimming destination, so I think don't the recreational impact is going to be as great as some people are perceiving it to be and you're obviously going to go from having a 4-acre pond to a much narrow stream channel that's going to be meandering through there and then you'll have succession from wetland to kind of a grass that's going to fill in and what not and become more usable park space in the future after several years go by and I should probably have Jim add anything that I've left out.

Mr. McCartney stated I think Steve has really hit on a lot of the ecological changes which there will be a number there. It's also true that with a lot of other dam removals that have been seen in other communities some of the kinds of changes have been significant in terms of public amenities. A number of communities that have similar situations with dams right in the middle of the community have taken advantage of removal of those dams and the additional land area that's exposed when the dam is removed to create or enhance existing park areas and to provide walkways...people choose to get married in a park like that or that kind of thing, so there will clearly be ecological benefits...transportation of sediment, fish passage...those kinds of issues. With respect to the aesthetics of the area I think that's in the eye of the beholder...it'll be sort of a cascade of whitewater through there, there's significant ledge that's present at the location of the dam...dams tend to be constructed where there's a lot of ledge so for those that appreciate the

cascading water over the dam there will still be some visual amenities in that respect there won't be quite as much marsh it will be more of a river ravine type setting than it is now. But, I think that overall...in the short term it will be a significant change for a lot of folks but I think in the long term you'll find that people across the City and people within the neighborhood will be very pleased with the conversion and restoration to its former state.

Alderman Lopez stated it's very unfortunate that Ron Johnson who participated in the beginning of this program is not with us tonight because his vision in the long run could have helped the Aldermen make a decision. But, a question for Mr. MacKenzie...in the past Parks and Recreation has done many five-year programs, is this one of those programs that could be a five-year program to restore that brook.

Mr. MacKenzie asked are you saying if the dam was repaired and restoring the depth of the water or are you saying restoring...if the dam was removed restoring the park and adding to the park?

Alderman Lopez replied keeping the dam and do whatever you have to do with it. According to Ron Johnson even if they take down the dam in order to have a recreational aspect out there after they take down the dam we would have to put money into that particular area, do you share those remarks.

Mr. MacKenzie stated it's been my impression that most of the removal of the dam and the restoration of the immediate stream banks we could get grants from that or the state would do that. Eventually, we would have somewhat more land area that could be used for parkland. It might over time take a little bit more money but in effect we would be getting more parkland as a result of eliminating the pond.

Alderman Lopez stated if we attempt to restore the dam do we think that there would be grants or other agencies out there to help us.

Mr. MacKenzie stated I'm trying to remember about the Pine Island Dam...I believe it was most city funds that had to go into restoring the Pine Island Dam when it was breached.

Mayor Baines asked do you want to respond to that too because that was the question I asked you in terms of grant funding.

Mr. Landry stated that's a very valid question and one the City should consider. Unless I am unaware of other funding sources most of the federal and state grant opportunities aren't tied toward what we consider to be capital improvement projects like dam repair and maintenance. Most of the funding is to do what is considered restoration...unfortunately, it's not restoration of historical structures but it's restoration of a natural habitat and a natural functional of ecosystems.

Alderman Gatsas asked can you tell me if that dam let go tomorrow...I know that you talked about a \$60,000 figure to replace the dam. If the dam let go tomorrow what would the cost to the City be?

Mr. McCartney replied it depends on the event. A catastrophic event and a significant flood could wash...there's a section under Front Street...take out the bridge, take out the sewer line, there would be costs associated with that, that would be in the event of a catastrophic breach of the dam. If the dam failed due to disrepair during a low flow type event...depending on the condition of whatever remnants of the dam are in place after that the State might require the City to undertake efforts to remove any remnants of the dam or to repair it in its further

state of disrepair and that really depends on an evaluation by the State engineers as to the safety of the structure in that breached condition. Even a partially breached dam can still hold back flood flows and pose a potential threat to health and safety.

Alderman Gatsas stated from a scale of 1 to 10...10 being the worse condition...what is the condition of that dam.

Mr. Landry replied I know that Jim and I aren't qualified to answer that. We'd have to have Grace Levergood who is the inspector for that structure answer that for you but I know she said it's a fairly low hazard class dam but the current condition that it's in...there's concrete that's falling, there's some seepage underneath the structure that's weakening it from underneath, so if I was to give you my unprofessional guess on that it's probably around a 3.

Mayor Baines stated just a suggestion because I don't think we're going to solve this whole thing tonight. Would it be the will of the Board to at least pass Alderman Forest's motion tonight and then refer the whole issue to CIP so they can have further discussions about funding and other opportunities to deal with this situation, would that be agreeable to members of the Board? I'm just offering this is a suggestion to move this off.

Alderman O'Neil stated I think that's a great suggestion, your Honor. I don't know if that motion is going to be entertained. I have a couple of questions for these gentlemen but if it's going to be sent to a committee that's fine.

Alderman Shea stated I would like to vote it up or down this evening, your Honor.

Mayor Baines asked would the Clerk read the motion.

Deputy City Clerk Johnson stated my understanding is the motion on the floor is to retain the dam.

Mayor Baines stated if that passes then I would accept a motion to refer to CIP for further discussion.

Alderman O'Neil interjected, your Honor, I do have questions this evening. Documentation that was part of our package had an estimate of around \$49,000 to do the dam removal...where was the estimate prepared or who prepared that estimate?

Mr. Landry replied that estimate was prepared by the NH DES Dam Bureau.

Alderman O'Neil stated so they would have fairly updated information on cost to do that.

Mr. Landry stated we updated that quote for the January 20th public meeting, I believe.

Alderman O'Neil in reference to the quote for \$60,000 to do the repair...did that come from the same agency?

Mr. Landry replied that was based on the inspection performed on Maxwell Pond Dam.

Alderman O'Neil stated again they would probably have some updated information on costs.

Mr. Landry stated exactly.

Alderman O'Neil stated so to remove it we're talking \$50,000 roughly, to fix it we're talking \$60,000. How about the dredging, that seems to be a guesstimate by people and I don't know what it's based on, where did that number come from?

Mr. Landry replied that number was based on in depth sediment surveys that we performed on Maxwell Pond. We did about 130 soil borings and did a bathometric map of the sediment in there and it was based on a cubic foot removal cost of current dredging estimates that were current as of last summer and that was \$1.3 million to dredge.

Alderman Roy stated just as a brief clarification of facts. The \$50,000 to take it down...those are not Manchester taxpayer funds, correct.

Mr. Landry replied correct...that would be all federal grant monies.

Alderman Roy stated so the removal or restoration of the historical creek bed would not have an impact on the Manchester taxpayer.

Mr. Landry stated free to the City.

Alderman O'Neil asked for clarification of the motion again.

Deputy City Clerk Johnson stated the motion is to retain and repair the dam. And, then it is my understanding that there will be a follow-up motion to that to refer it to CIP Committee for funding issues.

Alderman Shea interjected at the taxpayers expense, is that right.

Mayor Baines stated that is going to go to the CIP Committee for further discussion to see what funding opportunities are available. If it does pass I'd ask that you refer it to CIP.

Alderman Roy stated if I could make a statement. If it does fail I would like to make a motion or let Alderman Shea put a motion on the floor.

Mayor Baines stated you would obviously have the opportunity to do that.

Alderman Guinta stated and the estimated cost is what.

Mayor Baines replied approximately \$60,000.

Mayor Baines called for a vote on the motion. The motion carried with Aldermen Roy, Gatsas, Guinta, Shea and DeVries duly recorded in opposition.

Alderman Garrity moved that the item regarding Black Brook Maxwell Pond Stream Restoration be referred to the Committee on Community Improvement. Alderman Smith duly seconded the motion. The motion carried with Aldermen Roy, Gatsas, Guinta, Shea and DeVries duly recorded in opposition.

Mayor Baines stated just before we move onto the Consent Agenda Seth and I went on a business visit today to Fidelity in Merrimack...sometimes we forget that we have companies even though they're outside of the City they're large employees. Eight percent of the workforce is in Manchester...almost 400 employees that work at Fidelity in Merrimack from Manchester. The good news down there today is that they're planning to add about 1,000 jobs this year and we had some great discussions about workforce development, high tech workforce,

etc, etc, but they were very positive and very impressive facility if any of you have an opportunity to visit it.

Mayor Baines stated there is an occasion occurring and on behalf of the Board of Mayor and Alderman I'd like to wish a Happy Birthday to Riley Yates, congratulations. Riley, you know how we celebrated the Clerk's early on Leo made me do that so you can take it up with Leo.

CONSENT AGENDA

Mayor Baines advises if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Ratify and Confirm Poll Conducted

- A. On April 22, 2005 approving the referral of a supplemental appropriating resolution for Airport to public hearing on Tuesday, May 3, 2005 at 6:30 PM in the Aldermanic Chambers (unanimous).

Approve under the Supervision of the Department of Highways

- B. PSNH Petition #11-064 (two poles 29/7-1 and 8-1) located on Route 101.

Informational – to be Received and Filed

- C. Communication from Leo Bernier, City Clerk, thanking the Board for their investment in the City Clerk's office.

REFERRALS TO COMMITTEES

COMMITTEE ON FINANCE

E. Supplemental Appropriating Resolution:

“A Resolution providing for supplemental appropriations to the Manchester Airport Authority from Special Airport Revenue Funds for Fiscal Year 2005 in the amount of \$4,500,000.”

REPORTS OF COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE ADMINISTRATION

- H.** Advising that it has accepted the City’s unaudited Quarterly Treasurer’s Report for the period ending December 31, 2004.
- I.** Advising that it has accepted the City’s Monthly Financial Statements for the nine months ended March 31, 2005 submitted by the Finance Department, and is forwarding same to the Board for information purposes.
- J.** Advising that it has accepted the following Finance Department reports:
- a) department legend;
 - b) open invoice report over 90 days by fund;
 - c) open invoice report all invoices for interdepartmental billings only;
 - d) open invoice report all invoices due from the School Dept. only;
 - e) listing of invoices submitted to City Solicitor for legal determination; and
 - f) accounts receivable summary.
- and is forwarding same to the Board for informational purposes.

COMMITTEE ON LANDS AND BUILDINGS

- L.** Recommending that in order to provide additional environmental protection for the Nature Preserve the following provision be adopted by the Board of Mayor and Aldermen and included in the Hackett Hill Master Plan:

“Any development, including buildings, structures, driveways or parking lots, within fifty (50) feet of the Nature Preserve shall be reviewed by the Conservation Commission to determine whether there would be any impact on the preserve and, if so, what measures could be adopted to mitigate the impacts.”

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- N.** Recommending that a request from Ms. Jo-An Concannon for the use of Arms Park on Saturday, June 25, 2005 from 3:00 to 5:00 PM for a wedding ceremony be granted and approved, under the direct supervision of the Police, Risk and Traffic Departments.

**HAVING READ THE CONSENT AGENDA, ON MOTION OF
ALDERMAN O’NEIL, DULY SECONDED BY ALDERMAN SMITH, IT
WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.**

Referral to the Committee on Community Improvement:

- D.** Petition submitted by John Tenn, on behalf of residents and neighbors of Whitford Street and Walnut Hill Ave. Extension, requesting the City to investigate and correct the lack of storm and sewer drains on Walnut Hill Ave. Extension.

Alderman Roy stated this is a petition submitted by a number of residents of Ward 1 looking for CIP funds for lack of storm and sewer drains on a street in Manchester. I appreciate it going to the Committee on Community Improvement I

would just want to make sure that it's understood that this take a priority for a number of residents of Ward 1.

Alderman Roy moved that it be referred to the Committee on Community Improvement. Alderman O'Neil duly seconded the motion. There being none opposed, the motion carried.

Referral to the Committee on Finance:
F. Resolution:

“Establishing a Non-Capital Reserve Account pursuant to
RSA 34:1-a.”

Alderman Shea stated I called the City Clerk today about the Non-Capital Reserve Account and I'd like him to run through if we were to approve this what it would mean and I think that probably it would be helpful for everyone to understand what this fund would do if it were adopted by the Board.

Alderman O'Neil stated I think he might have meant the Solicitor because that's what he had told me earlier.

City Solicitor Clark stated Alderman Shea called me today to discuss this item. He asked when we establish this account whether it could be established with different parameters than the other reserve accounts that we have under the ordinances which call for two-thirds votes for other uses. I explained to him that this Non-Capital Reserve Account is a different animal than those other accounts we have presently established by ordinance. This is an account that's governed by statute. Once it's established through the public hearing process the uses for the funds are very limited. They have to be very specifically used within the terms of the statute. The only way that you could use them for purposes outside of what is

allowed in the statute would be basically to discontinue the reserve account which would require another public hearing and there are restrictions on three-quarter votes by the full Board on various actions.

Alderman Shea just to pick up Tom if the Board were to establish an account and put the \$3 million into this account and the Aldermen wanted to use any monies other than for vehicles and technology after this were approved they could not use it. Am I correct in that statement, Tom?

City Solicitor Clark replied once you've established the account you have to use it for the terms that are set forth in the statute which are very specific for the repair and replacement of motor vehicles and other types of actions. If you wish to use it for a completely different purpose you would most likely at that point have to dissolve the fund.

Alderman Shea stated if we were to establish this fund but instead of using the \$3 million we were to establish it for a lesser amount we would then have to do that now and make a stipulation now or when we vote on it concerning the...observing the tenets of this particular RSA is that correct.

City Solicitor Clark stated as I read the statute this Board will have to refer this item to a public hearing along with the other budget resolutions because the statute ties it into the public hearing on the budget to establish the account. Then during your budget appropriation you appropriate whichever amount you wish to into it.

Alderman Shea stated let's assume for the sake of discussion if instead of establishing the account for \$3 million the Board members decide to establish it for a different number, say \$500,000 we would not then have to do anything in

terms of the RSA open hearing...we could use that money for other purposes before the terms of this were established, am I correct?

City Solicitor Clark replied yes. This Board could establish the account and not fund it at all if it didn't want to. But, during the budget process you'll determine whether you want to use the full \$3 million that's been talked about or do you want to use \$2 million or whether you want to put \$500,000 into it.

Alderman Shea stated what I'm trying to get across and I think once we make a decision to follow the RSA and we then have an open hearing we can't use...in other words, it's the same next year as this year...by that I mean if we, for instance, say we're going to put \$3 million into this account this year then we have to follow that and use that money only for the two things that you mentioned either the vehicles or for technology...that would limit us in terms of how we would be able to spend this on-going money if it comes back next year and the year after.

City Solicitor Clark stated if you establish the fund, the reserve account and if you do appropriate the \$3 million into it then those funds are restricted.

Mayor Baines stated but there are two separate actions establishing the fund and then putting money into it.

Alderman DeVries stated I think that Alderman Shea has clarified this. Just to be perfectly sure what I heard from the City Solicitor was that the action we are taking tonight is establishing the reserve account. When we finish our budget deliberations will be appropriating at that point in time a dollar amount that can be funded into this account and that establishing this tonight does not automatically defer the entire \$3 million into that account.

City Solicitor Clark stated not quite, Alderman. The only action you're taking tonight is to refer it to the Finance Committee. If you're going to set up an account you first have to have a public hearing. You would have to have a report out to refer it to public hearing before you decide to establish it.

Alderman Roy stated Tom I just want to make sure that everyone is crystal in this. We're establishing the fund whether we fund it for one dollar or ten million dollars that's a decision at a later date through the budget process.

Mayor Baines stated that is correct. Does everybody have that now? This has nothing to do with dollars.

Alderman Guinta stated if we establish this fund and at a later date fully fund it...two, three, four years later a future Board decides to rescind the funding in that account what's the impact on the bond rating for the City? And, the reason I ask the question is because when we have reserve accounts set up we have always been told that if you want to remove it it's going to impact the bond rating of the City and I think the intention, your Honor, of this...your intention is not only to fully fund it at \$3 million but fund it in future years.

Mayor Baines stated that's my recommendation.

Alderman Guinta stated so we're looking at over a period of 3 to 5 years probably getting into four, five, six million dollars.

Mayor Baines stated actually in my budget message was of the \$3 million to take \$750,000 put it to vehicles, \$250,000 to technology and \$2 million. Randy, would you like to take a stab at that question.

Alderman Guinta stated so in future years the idea would be to continue to build the reserve fund.

Mayor Baines stated interest...that's the idea.

Alderman Guinta stated so my question is if it's built over time to a certain amount and then the Board decides to spend it or dissolve it what's the impact on the bond rating?

Mr. Randy Sherman, Deputy Finance Officer, stated back last May when we made the presentation about this fund we pointed out it was the rating agencies that feel that some of your expenses should be more on a pay-as-you-go type basis rather than on a bonded basis. We're trying to establish this fund so (1) we can meet our on-going needs for MER and technology but (2) so we can do away with five and ten year bonds which are very expensive for us to issue. You're paying a lot of money out in interest rather than investing those dollars and earning interest. Now, the Solicitor is correct that this is only the establishment of the fund it is not appropriation you cannot commit future Boards to appropriate into this. But, keep in mind the items that this is for. Even at some point if it gets to the point where it is at max and you want to stop appropriating funds into those dollars those expenses do not go away. So, if it gets to the point where there is \$15 million in there...whatever the magical number is that everybody thinks there's enough of those dollars you would want to leave those dollars there and continue to use them for the purpose that they are in there for. Now, you may over a number of years draw that down to zero and get away with it but as soon as you close this fund out you still have the responsibility to appropriate for motor vehicles and the like.

Mayor Baines stated let me try to answer his question. I think what my experience in going down to Wall Street...it would be one of many factors that they would look at. They look at the overall function of your government, what you're doing with your rainy day funds, with your reserves, with your investment and your infrastructure...it wouldn't necessarily by itself impact the rating it would be what your total pattern is.

Mr. Sherman stated what they would look for is if you're going to do away with the fund what's your answer now to provide funding for those costs. If you have an alternative that's okay, if you have a different plan that's okay but that's one of the things that they would want to look at.

Alderman Guinta stated I can appreciate your answer Randy, however, it doesn't quite answer my question and again the concern I have and we've addressed this as a Board before. We've talked about depleting rainy day funds, for example, to fill holes in revenue projections...my concern is very specific. If we have this fund and it expands over time and then there is a situation where the Aldermen choose at a later date take two, three, four million and whatever percentage of this fund and use it for other reasons they've got...and use it for that other idea. Are you saying that there is no impact on a future bond rating or is there a potential for an impact on a bond rating if that occurs.

Mr. Sherman stated there's a potential for an impact depending on why you're doing it. If you're doing it to fill a budget gap for one year...here's \$10 million we can dissolve this fund and fill that gap that's going to have an extremely negative impact. If for some reason the State comes in and decides to take over all of your streets and they're going to handle all of those items and you don't need that size fund there anymore that's a different reason or if you've got another solution on how you can fund these costs. We've looked over these costs with the

Highway Department over a number of years...you're looking at over \$100 million of motor vehicle expenses in the next 20 to 25 years. Those costs don't go away unless you can somehow push those off onto another party and we just don't see that happening.

Alderman O'Neil stated a few questions for Tom Clark. Tom, your understanding of the intent of this reserve is for either motor vehicles or technical/computer equipment.

City Solicitor Clark replied correct that's the way it's being set up.

Alderman O'Neil stated we could appropriate or any future Board could appropriate one dollar or a million dollars or more each year.

City Solicitor Clark replied that's correct.

Alderman O'Neil stated I guess there was talk this year about \$3 million, two of which would go into the reserve, the balance would be spent on equipment. That doesn't actually go into the reserve, correct.

City Solicitor Clark replied that is my understanding.

Alderman O'Neil stated to take it out later as the reserve is built up and use it for motor vehicles or technical equipment...how many votes to do that?

City Solicitor Clark replied the same as during your budget process so it would be eight votes.

Alderman O'Neil stated another purpose would be...you mentioned something about two-thirds at one point.

City Solicitor Clark stated there are a couple of things in the statute. One is the purposes for which the fund is set up is no longer a valid purpose or are not necessary purposes you can change the use of the fund but that requires a three-quarter vote. To dissolve the fund it's not quite as clear whether it's a three-quarter vote or just a majority vote but you do require a public hearing.

Alderman O'Neil stated and a final question to set this up we have to hold a public hearing just on this issue.

City Solicitor Clark stated as I read the statute and we've discussed with the City Clerk's office and reviewed it in my office the statute requires a public hearing on the budget to be discussed. It needs to be discussed at the public hearing on the budget. Now, this resolution wasn't prepared at that time when the budget went to public hearing. I believe that you're going to need to refer all of the budget resolutions out to another public hearing in association with this one.

Alderman Shea stated if I may refer to Randy a question. If, for instance, we establish this fund and we establish it at a \$3 million type fund...what I'm thinking is wouldn't it make a little bit more sense from what Alderman Guinta was referring to if instead of getting into bonding issue we established it at a lower rate so that if we establish this particular fund at a lower rate our bonding would not be impacted as drastically as it would be otherwise and so my point is that we would still have the bonding certification if we established a particular fund which would be more economical in terms of our being able to fulfill this funding per year because I'm not sure are we going to get this \$3 million every year for the next five year or three years, how does that work?

Mr. Sherman replied the \$3 million a year or whatever the magical number is is subject to an annual appropriation by the Board. So, the only one we can deal with between now and the second Tuesday in June is next year's appropriation.

Alderman Shea interjected no, Randy, what I'm asking is do we expect to get each year the same amount of money that we got this year because we're paying off our debts?

Mr. Sherman stated the debt that we had on the fiscal year conversion bond was roughly \$3 million; that's the dollars that go away in '06 that we're going to use to start this fund. The reason why you don't want to minimize the amount of dollars that you want in there because the intent of the fund is to have a principle balance that generates investing earnings.

Alderman Shea asked are we going to get \$3 million in '07?

Mayor Baines replied if you don't spend it.

Alderman Shea stated please, Mayor, don't interrupt I'm asking him.

Mayor Baines stated I can answer the question.

Mr. Sherman stated there's no money that's coming to the City that goes into this fund. It's an appropriation that the Board makes.

Alderman Shea stated this year we received \$3 million because we paid our debts, is that correct?

Mr. Sherman replied no we're not receiving it, last year we had \$3 million of debt for the fiscal year, next year we have zero. Rather than take that \$3 million out of the budget we're going to use that \$3 million, level fund it and use it for this MER/technology.

Alderman Shea stated so we don't know what we'll get in '07 is that what you're saying. We won't get anything or we just got the \$3 million for one year is that what you're saying?

Mr. Sherman replied that's at the choice or whether the Mayor puts it in and the Board appropriates.

Alderman Shea stated well we can put it in if we so desire to because he put it in this year.

Mr. Sherman replied absolutely.

Alderman Shea stated okay so my point is wouldn't it make more sense then if we had a particular fund that was less vulnerable because basically if we were to do it the way you're saying and we couldn't add to that next year or we had for whatever reason to delete it over the course of three years because we weren't getting anything from it it would go to zero and the bonding people would say where did the fund go and we'd have to say we used it for whatever.

Mr. Sherman stated no I would disagree with that. Again, the intent of the fund is to set up a principle balance that would generate investment earnings that will cover the cost of your vehicles in the future. Every year when we develop the budget we bring in \$300,000 out of the Cemetery Trust Funds. A hundred years ago those Cemetery Trust Funds were set up. Every year they contribute to the

operating costs of the cemetery and nobody questions that, nobody looks to dissolve it, those funds are there, they're there for that purpose and every year we can count on it and that's what we're looking to do with this account. Rather than every year try to fund motor vehicles or every year try to bond a fire truck because it's so expensive we would establish this fund, it would earn dollars that we could then turnover and use to buy the vehicles. It's a long-term plan, it's roughly set up at \$3 million a year is the way that it's designed and it would fund your vehicles for now till the end. You would never need to increase that \$3 million appropriation. Again, over the next 25 years you need to spend well over \$100 million on your vehicles.

Mayor Baines stated okay I'm going to stop some discussion here. First of all, we are only talking about the fund not the money that will come during the budget process and I will attempt to explain what we're dealing with here. The debt service is now retired on the fiscal year conversion for that \$3 million. If we don't spend it that \$3 million will be there every year subject to appropriation.

Alderman Porter stated I was just going to make a comment. The way I understand it is that it's no different than if a person pays off their mortgage, they don't have anymore income it simply reduces the obligation on an annual basis. I think there are two sides of looking at this. One is that the taxpayers in essence have been funding this for the past whatever number of years since we made the conversion to the fiscal year. The other side of it is just because we're used to having that taken out does it mean that we should necessarily continue to take it out and put it somewhere else. I think it's obvious we do need to do something for the future for our motor vehicles and technology and correct me if I'm wrong there are a couple of things: one is that we are simply establishing the account without a particular monetary value, the other is and I'd like to ask Tom Clark if this is done during the normal budget process it simply requires a majority vote of 8 correct.

City Solicitor Clark replied the same vote as it takes to adopt the budget yes.

Alderman Porter stated if we use that money for the desired purposes other than during the budget process it would then need 10 or 9.

City Solicitor Clark stated no you have to use it for the specific items you're setting up the account for.

Alderman Porter asked what would be the vote needed if you did it other than during the budget process?

City Solicitor Clark replied you do it during the budget process.

Alderman Porter stated if you did it outside of the budget process...

City Solicitor Clark stated no the statute requires you to do it during the budget process.

Mr. Sherman stated I think what you're asking is if they want to use the money in the fund for another purpose...in essence...

Alderman Porter stated I understand that Randy that requires a 75% vote under all circumstances. But, I was under the impression that if you use it outside or if you want to use it let's say in January...budget's done and everything you cannot use it.

City Solicitor Clark stated you have to appropriate it during the budget process. Consider what you have as the balance plus your interest the statute allows you to appropriate a certain portion of it.

Alderman Porter stated I do think it's a good idea to set up, it's not a forced savings but it is a savings to put forward to that and what is the target Randy? Are you talking \$100 million over a 25-year period.?

Mr. Sherman replied yes...total spending, yes.

Alderman Porter asked how much of that...depending upon the interest rate or the rate of return would determine the amount that would be used out of interest...we still would have to be using part of the principle would we not?

Mr. Sherman replied yes but keep in mind what we're trying to do is every year use \$1 million of the principle anyway and again the way the resolution is drafted is you can pull principle out up to about 10%. So, in those years when you need an expensive vehicle like a fire truck if you only have that million dollars to spend and maybe you need \$1.4 million that year you could go in and actually pull some principle out.

Alderman Porter stated but it's not going to eliminate bonding for those purposes either is it? Is this a goal to totally eliminate bonding?

Mr. Sherman replied it should eliminate bonding for those 5 and 10-year assets yes.

Alderman Porter asked after how long a period of time?

Mr. Sherman replied after well probably initially unless there is a dire need to a fire truck within the next two or three years we should be able to avoid any more bonding.

Alderman Guinta stated I want to attempt to complete the answers to Alderman Shea's question. I think establishing a fund dedicated to addressing some of the needs in a long-term plan is a laudable goal. But, using these funds and the intention of setting up this reserve account is to use these funds in question. The funds in question is a \$3 million annual bond payment that we paid in fiscal year '05 for the fiscal year conversion bond money. So, the question becomes do we continue to spend the money even though we've paid a bond or do we return the money to the taxpayer. The original intent of that former Mayor and that former Board was when this bond was paid to return this money to the taxpayer. If we want to identify a fund and I asked Mayor Wieczorek and that's what he said...if the idea is to establish a fund let's do it but let's identify other revenue sources and I would suggest we have each department identify additional funds that are unused at the end of the year to go into this fund so we can have a long-term plan and we can also return this money to the taxpayers, very simple.

Mayor Baines stated the question tonight is not that it's about establishing the fund.

Alderman Guinta stated you're right, your Honor, but it's a philosophical question because the whole purpose of establishing the fund is because you want to fund it with the \$3 million. The \$3 million should be going back to the taxpayer as the Board's previous and the previous Mayor originally intended.

Mayor Baines stated again that's a little bit of a different version of history that we have heard through Finance with similar conversations but again we can leave that there.

Alderman Guinta stated let me finish, your Honor.

Mayor Baines stated that's a different conversation.

Alderman Guinta stated I asked Mayor Wieczorek as recently as a week ago.

Mayor Baines stated that's fine.

Alderman Lopez stated now that everybody's totally confused...the only thing that we are doing here tonight, let's break it down and I think...we're sending this to Finance Committee and they're be a resolution as to whether or not we want to establish the account and then if we do it goes out to a public hearing. If the vote is not to establish the account it's a moot point.

Mayor Baines stated that's correct. The resolution now is just to refer this to Finance by the way.

Deputy City Clerk Johnson stated we need a motion to that effect.

Mayor Baines asked can we have a motion to do that.

Alderman Lopez moved to refer the Resolution "Establishing a Non-Capital Reserve Account pursuant to RSA 34:1-a." to the Committee on Finance.
Alderman DeVries duly seconded the motion.

Alderman Gatsas asked, Randy, can you tell me...I'm reading the RSA here and it says for motorized equipment, technology or other assets with a 5-year life or less. Can you give me some examples...would road resurfacing be assets of five years or less?

Mr. Sherman replied we don't bond maintenance which would be resurfacing and if we do a street reconstruction the use of the life is much longer than five years. So, no road resurfacing wouldn't.

Alderman Gatsas stated my understanding is the reason why we didn't bond resurfacing from the comments that I remember from the Finance director was because they were assets that showed a life expectancy of less than five years. So, I believe that's an asset...that's what I've learned from the Finance Director because I've asked it many times why wouldn't we go out and bond resurfacing and his answer to me was because the life expectancy of road resurfacing is five years or less and that's what's recognized by the auditors.

Mr. Sherman stated but that's a maintenance item. A paint job is five years or less too but that's a maintenance item.

Alderman Gatsas asked can you give me some examples of five years or less? There's a reason why it must be in here, your Honor, they wouldn't just put words in there.

Mr. Sherman stated typically we don't bond any items that's under 5 years. So, if you're going to put in sound systems, if you're going to buy any type of...I'm just trying to think of equipment that's not necessarily what I consider motorized equipment...lawnmowers and the like or those types of things which usually aren't

funded out of the MER, we don't bond any of those items. Reval is five years or less.

Mayor Baines called for a vote on the motion to refer the resolution to Finance. The motion carried with Aldermen Gatsas and Guinta duly recorded in opposition.

Report of the Committee on Accounts, Enrollment and Revenue
Administration:

- G.** Recommending that the 3rd quarter FY2005 write-off list for the accounts received module be approved.

Alderman DeVries stated item G deals with some write-offs that are being made by the City...one of them caught my attention...Outstanding Alarm Bills...and I'm wondering if maybe the City Solicitor would like to weigh in on the procedure for collections that has gone prior to making the determination that these items would be written off.

City Solicitor Clark asked which items are you referring to?

Alderman DeVries replied we're in item G the third page in has a listing of Outstanding Alarm Bills. What has preceded the determination to write-off these amounts?

City Solicitor Clark replied I believe Matt in the City Clerk's office has that detail but as I understand it by talking with Mr. Arnold today in my office these write-offs here are people that we cannot find...I believe Casey Septic is one of them, it's a dissolved corporation, they're not doing business under any other name, we cannot find them. There's a couple that are out-of-state that would cost more to try and find them out-of-state than it is worth collecting. There's one from Canada

which would cost more to go up there and try and find the person than what it is worth.

Alderman DeVries stated I would redirect the City Clerk's or your office to take a look at account #763 currently sitting as a State Rep representing Ward 8 should be fairly easy to find. I think there might be a typo but the address is correct.

City Solicitor Clark asked which one is that, please?

Alderman DeVries replied #763 outstanding since 2002. I think that's enough said but I think we can find that individual.

Mayor Baines stated and we'll pass the remainder, is that your intent?

Alderman DeVries moved to delete #763 from Outstanding Alarm Bills and accept, receipt and adopt the remainder of the Committee report. Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

Report of the Committee on Lands and Buildings:

- K.** Recommending that an Air Rights Lease agreement, as enclosed herein, between the City of Manchester and Catholic Medical Center granting the right to cross McGregor Street be granted and approved subject to conditions set forth and that the Mayor be authorized to execute same, subject to final review and approval of the City Solicitor.

Conditions of execution of agreement shall include internal review and approval of City Solicitor, Highway, Traffic, Planning, Building and Risk Management and subject to meeting any contingencies of the Planning and Zoning Boards.

Alderman Thibault stated I'm pulling this for the City Clerk they'd like to speak to this.

Deputy City Clerk Johnson advised that we have distributed to the Board a handout with regards to this. The Committee on Lands and Buildings had voted to have an internal review by departments and come out to the Board with a recommendation. The Risk Manager had approved insurance guidelines but Attorney McGinley has submitted an amendment and she is here to address that. In the event that the Board wished to go forward with it we would suggest that the agreement be amended inside the report. In our review with departments because we did have some departments report back they are indicated that they would not want to give final approval but that conceptually they are in agreement and, therefore, the conditions of the execution would include all of those internal reviews and meeting those and the Solicitor would be expected to not allow it to be executed until such time as those conditions were met. But, at the very least, the agreement should be amended on pages 2 and 3 as handed out and she is here to address it.

Attorney Karen McGinley stated I'm attorney with Devine Millimet and Branch here in Manchester and we represent Catholic Medical Center (CMC). It has pending before the Planning Board and the Zoning Board of Adjustment a project which is across the street from the main hospital building to be built on some of the parking lots which will consist of a medical office building and a large garage. To connect the two properties what they would like to do is build a fly over bridge similar to the one at Hampshire Plaza so that people, patrons, doctors and patients can access the hospital and the medical office building and the parking garage and the remaining parking lots without having to physically cross McGregor Street. This will alleviate some of the problems that we have with traffic on McGregor Street and the foot traffic that goes across from the parking lots. All of the

proposals before the Zoning Board and the Planning Board to contemplate for traffic study purposes that this bridge will be in place. So, that is why we do bring it before your Board and his Honor for review so that we can have your approval subject to the requirements that are placed on the project including the bridge by the Zoning Board, the Planning Board and city departments. At the committee level there was a concern raised as to the level of insurance. While I do understand that the Risk Manager was fine with the insurance I did consult with my client and we have increased the insurance. The insurance provision begins on page 2...the changes are actually on the top of page 3. The handout that I brought with me tonight is just a visual...the first three pages show the bridge extending from the medical office building, it does connect on the other side of the last page or so where at CMC it connects.

Alderman Thibault moved to amend the report by substituting language in item 6, page 3 regarding insurance liability as attached hereto and accept as amended.

Alderman Forest duly seconded the motion. There being none opposed, the motion carried.

Report of the Committee on Lands and Buildings:

- M.** Recommending that the Board of Mayor and Aldermen find property located on a portion of South Bedford Street at South Commercial Street surplus to city needs and that said property be disposed of through sale to Nicholas Bonardi, subject to conditions. The Committee notes that it finds cause to dispose of the property in such manner in that it has been determined that there are no known City uses for the parcel, and that sale of such parcel can only benefit this abutter.

The Committee recommends that such disposition be subject to consolidation of said parcel with Tax Map 274, Lot 7A; and further subject to receipt by the City of \$20,000, an amount deemed agreeable by the Board of Assessors.

The Committee further recommends that the City Solicitor be authorized to prepare such documents as may be required to carry out such disposition and that the Mayor be authorized to execute such instruments as may be required subject to the review and approval of the City Solicitor.

Alderman O'Neil stated to move things along I had sent a letter to all the members of the Board regarding my concerns and I'm just asking the Board to consider sending this back to Lands and Buildings just to take a second look and look at the item based on my letter, so I'd make that motion. Alderman Porter duly seconded the motion. There being none opposed, the motion carried.

Mayor Baines stated I have some nominations this evening but first, Alderman Lopez.

Alderman Lopez moved to nominate Mr. Peter Escalera of 245 Prospect Street as a member of the Manchester Transit Authority Commission to the fill the unexpired term of Eugene E. Boisvert, term to expire May 2009.

Mayor Baines asked are there any other nominations. We will need a motion to close the nomination.

Alderman O'Neil moved to close the nomination. Alderman Porter duly seconded the motion. There being none opposed, the motion carried.

Per rules of the Board the nomination will layover until the next meeting.

Mayor Baines stated first of all I would like to thank Alderman Lopez for taking this initiative. He and I had a wonderful meeting a few weeks ago with the NH Minority Health Coalition that has come together to discuss transit needs relating

to people that I say represent the new manager and a lot of the challenges with signage, getting various routes, etc., etc. and we talked at that time about bringing in somebody in from the organizations that can help us facilitate that. I know we've had some great conversations with Dave Smith and the Authority about how we can advance that issue and we're going to have some announcements about that in the near future so I want to thank you very much for taking the initiative on that nomination.

Alderman Gatsas stated I would like to suspend the rules and move the nomination.

Mayor Baines stated no I think we're going to let it stay until the next meeting.

Alderman Gatsas stated I made a motion.

Mayor Baines stated I think the discussion at the last meeting...I'm not going to ask for that. My ruling is that we are going to let them stay unless you want to change the rules. First of all, we can handle things up here just fine, okay.

Alderman Gatsas moved to suspend the rules and confirm the nomination of Peter Escalera as presented. Alderman Forest duly seconded the motion.

Alderman O'Neil stated I hope Peter understands it has nothing to do with him but we created some controversy a few weeks ago over suspending the rules and I know in my discussion with several of my colleagues that I think there's...I thought there was a consensus that we were going to let everything layover for two weeks so we don't get into those situations again. Although I appreciate Alderman Gatsas' motion I'm going to vote against it.

Mayor Baines stated this is an outstanding nominee but that is my recommendation as well.

Alderman Lopez stated I ask my colleagues not to suspend the rules and let's wait the two weeks as according to our rules.

Mayor Baines called for a vote on suspending the rules and confirming the nomination. The motion failed on a voice vote.

Mayor Baines presented the following nominations:

Board of Registrars:

Signe A. McQuaid to succeed Barbara Arnold, term to expire May 1, 2008.

Highway Commission:

William F. Houghton, Jr. to succeed William F. Kelley, term to expire January 15, 2008.

Planning Board:

Peter Capano to succeed himself, term to expire May 1, 2008.

Todd Connors to succeed himself, term to expire May 1, 2008.

Raymond Clement to succeed himself, term to expire May 1, 2008.

David B. Eaton to fill the unexpired term of Harold Sullivan, term to expire May 1, 2007.

Harold Sullivan to succeed Peter Sorrentino, term to expire May 1, 2008.

Mayor Baines stated this evening I'm also nominating Paul Borek to be the new Director of the Economic Development Office and that again will layover until the next meeting and I've given you information on the candidate and I'd ask you to follow-up on that and I will be asking for a vote at the next meeting. I'd also like to read this letter into the record this evening and ask that this be referred to the Human Resources Committee for deliberation.

To the Honorable Board of Aldermen
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Dear Honorable Board of Aldermen:

This evening I have presented to you a nomination for you to approve a new Economic Development Director. As part of that nomination, I want to share with you my visions for advancing economic development for the City of Manchester.

In order to enhance the impact of hiring a new economic development director, we need to strengthen economic development, retention and marketing for this great city. It has been my observation that the Office of Economic Development needs to be restructured to ensure that we maximize the value and returns from every dollar that we invest in this important function.

Therefore, over the past several months, staff and I have been evaluating our current structure as well as a new proposed structure. Our first conclusion is that we do not need to have both a director and an assistant director in such a small department. A desk audit was performed on the assistant director position, and it was difficult to determine what have been the significant differences in the duties between the director and assistant director positions. According to the audit, it appears that both positions are aligned doing essentially the same type of work. What needs to happen is that several levels of work need to be performed and new goals achieved by different levels of work. Therefore, I am asking Virginia Lamberton to research and draft a new job classification that would be called *Retention/Marketing Specialist* at a lower salary grade. This new job classification would provide for economic development at the grass roots level to meet the needs of future businesses wishing to relocate here and also assist current businesses in staying and expanding in our city.

The proposed new job classification, as well as a new organizational chart, will be sent to the Human Resources and Insurance Committee for their review and approval before our next regularly scheduled board meeting.

I sincerely hope that you will work with me in adopting the improved strategy for economic development in the City of Manchester. This

approach is critical as we position Manchester to take full advantage of the opportunities that lie ahead.

Sincerely,
s/Robert A. Baines
Mayor

Mayor Baines stated not included in this letter would be my recommendation also to place the Destination Manchester position directly under the Economic Development Director head...I'm asking for referral of this to Human Resources this evening.

Alderman Lopez moved that the Mayor's communication be referred to the Committee on Human Resources/Insurance Committee. Alderman DeVries duly seconded the motion.

Alderman Guinta asked is the Destination Manchester Coordinator position Bill Jabjiniak?

Mayor Baines replied that is correct. Bill and his position would be put under the new Director of Economic Development.

Alderman Guinta asked when was this desk audit performed?

Mayor Baines replied about a month ago...February.

Alderman Guinta asked who performs that audit?

Mayor Baines replied the Human Resources Department.

Alderman Guinta asked was that a Board request?

Mayor Baines replied no that was my request...to guide me on the structure of the department in my role as the Mayor of the City.

Alderman Guinta asked is this a recommendation for a person in economic development?

Mayor Baines stated my recommendation is to create a different position at a lower level and it's going to committee.

Alderman Guinta asked what happens to the person in...

Mayor Baines interjected that can be discussed in committee. It would be a new position, it would be not the same position. If you decided to do that they could obviously apply for this new position or look at other opportunities in city government. In Mrs. Lamberton's department a couple of years ago a deputy position was eliminated and also recently we eliminated a deputy position in the Welfare Department as well.

Alderman Guinta stated I understand that. I have a couple of follow-ups. The position in Welfare was vacant.

Mayor Baines stated that's correct.

Alderman Guinta stated it was a layover in Human Resources. So, this essentially would be a layoff.

Mayor Baines replied no, not necessarily the person could apply for this position or other positions in city government.

Alderman Guinta stated doesn't this leave the current person sort of hanging in the wind right now.

Mayor Baines stated I have made a recommendation and it will now be up to the Aldermen and the committee to see if that's a good recommendation...if you want to do it or not.

Mayor Baines called for a vote on the motion for referral to committee. There being none opposed, the motion carried.

Alderman Porter stated my whole thing in this is we're still looking at three positions and I guess that's the area that I would have to be convinced that three positions are needed regardless of the pay grade...if three particular positions are needed. Am I correct, Mrs. Lamberton, in that basically what was done was to study the duties that exist and the conclusion you came up with was that there aren't that much differences between a director and an assistant.

Ms. Virginia Lamberton, Human Resources Director, replied yes. We could not distinguish very much difference between the actual duties of either position from one another.

Mayor Baines interjected based on the audit.

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

10. A report of the Committee on Finance was presented recommending that:

“A Resolution providing for supplemental appropriations to the Manchester Airport Authority from Special Airport Revenue Funds for Fiscal Year 2005 in the amount of \$4,500,000.”

As amended to \$10,000,000;

“A Resolution appropriating to the Manchester Airport Authority the sum of \$57,057,100 from Special Airport Revenue Funds for Fiscal Year 2006.”

As amended to \$47,057,100;

“A Resolution appropriating the sum of \$15,184,335 from Sewer User Rental Charges to the Environmental Protection Division for Fiscal Year 2006.”

“A Resolution appropriating to the Manchester Transit Authority the sum of \$1,074,691 for the Fiscal Year 2006.”

“A Resolution appropriating to the Manchester School District the sum of \$142,203,719 for the Fiscal Year 2006.”

“A Resolution appropriating to the Manchester School Food and Nutrition Services Program the sum of \$5,512,450 from School Food and Nutrition Services Revenues for Fiscal Year 2006.”

“A Resolution appropriating the sum of \$3,245,749 from Recreation User Charges to the Recreation Division for Fiscal Year 2006.”

“Raising Monies and Making Appropriations for the Fiscal Year 2006.”

“Approving the Community Improvement Program for 2006, Raising and Appropriating Monies Therefore, and Authorizing Implementation of Said Program.”

“Appropriating all Incremental Meals and Rooms Tax Revenue Receive by the City in Fiscal Year 2006 and held in the civic Center Fund, for the payment of the City’s Obligations in Said Fiscal Year Under the Financing Agreement.”

“A Resolution appropriating to the Manchester Aggregation Program the sum of \$834,682 from Aggregation Fees for the Fiscal Year 2006.”

“A Resolution appropriating to the Central Business Service District the sum of \$225,000 from Central Business Service District Funds for Fiscal Year 2006.”

As amended to \$230,500; and

A Resolution “Continuation of the Central Business Service District.”

ought to pass and layover.

The Committee further recommends that a resolution:

“Establishing a Non-Capital reserve Account pursuant to RSA 34:1-a.”

and all budget resolutions as introduced by the Mayor be referred to a public hearing in the Aldermanic Chambers of City Hall on May 17,2005 at 6:30 PM.

Alderman O’Neil moved to accept, receive and adopt a report of the Committee on Finance. Alderman Thibault duly seconded the motion.

Alderman O’Neil asked for clarification...the 16th or 17th...I wrote down 17th.

Deputy City Clerk Johnson replied May 17th.

Mayor Baines called for a vote on the motion. Alderman Garrity duly recorded in opposition to resolutions listed as numbers 6, 7, 11 and 14. Alderman Forest duly

recorded in opposition to the Aggregation resolution. Alderman Osborne was absent. The motion carried.

- 11.** A report of the Committee on Lands and Buildings was presented recommending that the Board approved a proposed electrical service easement to PSNH for access to the Derryfield country Club Clubhouse, and that the Mayor be authorized to execute said easement subject to review and approval of the City Solicitor.

Alderman DeVries moved to accept, receive and adopt a report of the Committee on Lands and Buildings. Alderman Porter duly seconded the motion. There being none opposed, the motion carried.

- 12.** A second report of the Committee on Lands and Buildings was presented recommending that the Highway Department be allowed to purchase a strip of land from WMUR TV, Hearst-Argyl Properties, on South Commercial Street (Tax Map 274, Lot 6) for pedestrian access to the new baseball stadium.

The Committee notes that the land is being purchased for \$11,000 and that this project was funded in FY05 at \$50,000 with the assumption that the Highway Department would do the construction work.

Alderman Roy moved to accept, receive and adopt a second report of the Committee on Lands and Buildings. Alderman Forest duly seconded the motion. There being none opposed, the motion carried.

- 13.** A third report of the Committee on Lands and Buildings was presented recommending that the previous actions with regard to the disposition of tax deeded property known as West Haven Road, Map 0922/Lot0039-A be rescinded.

It is recommended that the property be found surplus to City needs and offered for sale to the abutters, Dennis and Diane Traynor of 139 Mayflower Drive, at a price of \$3,000. Such price having been deemed a reasonable value by the Board of Assessors. The Committee notes that there is just cause to dispose of said property to the abutters as it serves no practical purpose other than to the abutters, would maintain an unsightly area, provide for access to the property, and sale of property to the abutters shall place the property on the tax roles, which is consistent with the recommendation of the Planning Department.

The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition and prepare such documents as may be required, and that the Finance Officer be authorized to credit tax dedeed accounts as deemed necessary, and for such purpose an ordinance is submitted for referral to the Committee on Bills on Second Reading.

Alderman Roy moved to accept, receive and adopt a third report of the Committee on Lands and Buildings. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Alderman Gatsas stated the reason why the Senate President sits in front of us in the Senate is so that he can see us when we have our hands up to speak. So, when you're sitting across from us, your Honor, sometimes you're looking down and when we have our hands up you don't see us.

- 14.** A fourth report of the Committee on Lands and Buildings was presented recommending that the Board of Mayor and Aldermen approve a communications site lease agreement, as enclosed herein, between National Grid Communications, Inc and the City of Manchester Water Works Department for a proposed cell phone tower off of Chester road in Auburn, NH and further recommends that the Board authorize execution of same subject to the review and approval of the City Solicitor.

and, further recommends that:

the Board of Mayor and Alderman approve a purchase and sales agreement, as enclosed herein, for the purchase of 8.58 acres of land located on Kimball Drive in Hooksett, NH at a cost of \$600,000 as a future site of a second Water Treatment Plant, and further recommends that the Board authorize execution of same subject to the review and approval of the City Solicitor.

Alderman Porter moved to accept, receive and adopt a fourth report of the Committee on Lands and Buildings. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

15. Ordinances:

“Amending Section 33.024, 33.025, & 33.026 (Ski/Aquatics Maintenance Worker) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024, 33.025, & 33.026 (WWTP Operator Trainee) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 39: Procurement Code of the Code of Ordinances of the City of Manchester by deleting Chapter 39 in its entirety and inserting a new Chapter 39: Procurement Code.”

“Amending Chapter 52: Sewers of the Code of Ordinances of the City of Manchester by amending Section 52.160 (A)(2), Sewer Rental Charges and Section 52.161 Septage Service Charge by increasing the user charges and septage service charges in the City of Manchester.”

“Amending Chapter 71: Snow Emergency Regulations, Section 71.03 and 71.99 of the Code of Ordinances of the City of Manchester increasing the penalties for violation of snow emergency winter parking.”

On motion of Alderman O’Neil, duly seconded by Alderman Porter, it was voted to dispense with the reading by titles only of the Ordinances.

These Ordinances having had their second reading by titles only, on motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted on passing same to be enrolled.

On motion of Alderman Thibault, duly seconded by Alderman Guinta, it was voted to recess the regular meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

Mayor Baines called the meeting back to order.

18. A report of the Committee on Accounts, Enrollment and Revenue Administration was presented advising that Ordinances:

“Amending Section 33.024, 33.025, & 33.026 (Ski/Aquatics Maintenance Worker) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024, 33.025, & 33.026 (WWTP Operator Trainee) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 39: Procurement Code of the Code of Ordinances of the City of Manchester by deleting Chapter 39 in its entirety and inserting a new Chapter 39: Procurement Code.”

“Amending Chapter 52: Sewers of the Code of Ordinances of the City of Manchester by amending Section 52.160 (A)(2), Sewer Rental Charges and Section 52.161 Septage Service Charge by increasing the user charges and septage service charges in the City of Manchester.”

“Amending Chapter 71: Snow Emergency Regulations, Section 71.03 and 71.99 of the Code of Ordinances of the City of Manchester increasing the penalties for violation of snow emergency winter parking.”

are properly enrolled.

Alderman Roy moved to accept, receive and adopt a report of the Committee on Accounts, Enrollment and Revenue Administration. Alderman Smith duly seconded the motion. There being none opposed, the motion carried.

- 19.** Communication from Alvin Corzilius and Ralph Sidore seeking the Board's approval of proposed changes to update and improve the appearance of the entrance to 150 Dow Street (Tower No. 1) as enclosed herein.

Mayor Baines asked is there a staff recommendation on this item? Is this through Lands and Buildings? Do you want to refer this?

Alderman Shea moved that the request relating to 150 Dow Street be referred to the Committee on Lands and Buildings. Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

- 20.** Communication from Violet Gelinas requesting the Board overrule the Zoning Board of Adjustment's decision of December 9, 2004 relative to a request to subdivide property at 10 Charlotte Street.

Alderman DeVries moved to refer issues surrounding request to Building, Highway, Planning and the Mayor's Office. Alderman Garrity duly seconded the motion.

Alderman O'Neil stated this has already been to committee, we've already addressed this matter. Is there new information that's going to change thinking or are we just going through the motions with this again? It's been through our

process once and it was agreed that they should take another move I guess, I don't know what to call it.

Alderman DeVries stated I'm not sure I'm the person to really defend that other than to say that there have been some changes in state statutes.

Alderman O'Neil asked since we've acted upon it?

Alderman DeVries replied no but actually as a City we've only seen one case that was applicable and that came through our Board in December. I think that the Gelinas' are attempting to plug into a state statute and I'm not sure if we are being clumsy as a City or if they are just not targeting the right departments or if parties don't have the right information. I know that they do have an attorney working on their behalf and they also have engineers working on their behalf and the hope is when we all sit down collectively face-to-face we will come up with whatever needs to happen one last time.

Alderman O'Neil stated for clarification this was before the CIP Committee with the recommendations to the full Board not to approve, correct.

Deputy City Clerk Johnson stated the CIP Committee recommendation was that they go through the dedication process and what they're doing now is saying they don't want to do that they want the City to override the ZBA ruling.

Alderman DeVries interjected it's not quite that simple.

Deputy City Clerk Johnson stated in essence that is what the letter is saying.

Alderman O'Neil stated with all due respect to Alderman DeVries if we can help her out let's send it someplace. Does it go to a committee or just staff?

Mayor Baines replied staff will come back with a recommendation to the Board.

Alderman Gatsas stated I don't think this Board, at least I haven't seen it in six years that we've started overruling the Zoning Board because that certainly is looking for a situation that every time there's a problem with the Zoning Board they're going to come before this Board and it's going to be in every Alderman's purview to take a look at it and I don't think that that's a precedent that this Board should even think about condoning.

Mayor Baines stated we would start meeting three or four times a week probably, so we've got to be very careful about that. All I think she is asking is for the staff to review it and come back to the Board.

Alderman DeVries stated I wish I was the individual that could give you more perfect information. It was very difficult to have a conversation with them and maintain a presence here at this meeting tonight since that's where most of the department heads were meeting with them tonight. I don't know all of the background, they will meet with the concerned departments and report back to us.

City Solicitor Clark stated as Alderman Gatsas thought that would be precedent but over and above that legally you cannot overrule the Zoning Board.

Alderman Gatsas stated if we entertain this we're going to have everybody that gets refused a variance to come in here and ask us then to...

Mayor Baines stated I think the City Solicitor has made a valid point...we have no authority to overrule the Zoning Board, so what would be the purpose of us even entertaining this. I think that's an important question and I'd ask the City Solicitor to advise us on this.

City Solicitor Clark stated their letter asked you to overrule the Zoning Board...you can't do it, you don't have the authority to do that by statute. The City the last time it acted on this recommended that they go through the dedication process. I believe when I've talked to Mr. Thomas at the Highway Department I think there are two avenues available...either they can dedicate the street to the City to make it a public street or the City can lay it out and pay for it with damages. I believe, as I understand it now, that the parties just want to sit down with City staff and get a better handle on how to move forward.

Mayor Baines stated then this is my recommendation. My recommendation number one would be to pass Alderman DeVries' motion to have the issue that their dealing with referred to staff and second to receive and file the request to overrule the ZBA decision. I think that's the easy way. If there are some other remedies and it has nothing to do with overruling the Zoning Board...staff looking at issues and then we receive and file and get it off our agenda.

Alderman Smith stated this did come up in CIP Committee and I believe that somebody from the Highway Department made some recommendations and I'd like to ask Frank Thomas...not to put him on the spot...if he could come up and explain the situation because I think we shouldn't discuss this at all.

Alderman O'Neil stated just a point. I was out with Frank one day last week and somebody said to him you're the guy that's on TV.

Mr. Frank Thomas, Public Works Director, stated we did correspond to the CIP Committee...we basically reinforced the position that it's an unaccepted street. As Tom Clark mentioned we suggested two possibilities. We stand by our recommendation, we still feel that the most/easiest way to proceed at this point is through the dedication process. I believe what Alderman DeVries is proposing is just to have City staff sit down with this group and try to explain to them why certain things can't be done and why we're recommending they proceed in another direction. In addition, they have been quoted some prices that we seem to feel is a little bit high to accomplish the goal. So, it's just an informational meeting with the group of residents.

Alderman Shea stated I know that if the people in question have a problem with the people on the Zoning Board they can appeal that decision in court...that's the process to go. I don't really think that as a Board and I agree with what was said...we can't start overruling the Zoning Board.

Mr. Thomas stated I think everybody's in agreement with that. I think again this is a courtesy that the Alderman is offering this resident to try to explain to them what our recommendations are.

Mayor Baines asked Alderman DeVries do you want to add anything more to this?

Mayor Baines called for a vote on the motion to refer to City staff. There being none opposed, the motion carried.

Alderman DeVries asked if when the meeting with City staff does occur a letter to the Board making any requests needs to be forthcoming, that they give clear direction on how to rewrite that letter. This is the second time that this family has

reached out. I would hate to have us receive and file something that would have been useful when they meet next week.

Mayor Baines stated all we've done is received and filed a request to overrule the Zoning Board of Adjustment because we have not authority to overrule the Zoning Board of Adjustment. We've now referred it to staff and staff will come back with some outline or report on what's occurred at the staff meeting.

Alderman DeVries stated if I could ask for a little bit of clarity on that from Leon LaFreniere because what the letter is asking is really a little different.

Mayor Baines stated do we really need to get into that tonight...we're referring it to staff and let them work on it and get back to us. We're not going to solve that issue tonight are we.

Alderman DeVries stated if I could ask Mr. LaFreniere to explain...I've had to sit here to hours with other Aldermen making lengthy explanations...I think I can ask Building Department to explain why the letter might possibly be a ruse to continue.

Mayor Baines stated I'm not willing to draw a line in the sand here but a certain point in time we beat the horse dead and the horse is crying for relief here.

Alderman DeVries interjected, your Honor, we'll argue about this longer than it will take me to ask my questions of Mr. LaFreniere.

Mayor Baines stated if we could keep in mind that we need to move expeditiously after thorough discussion. Please ask your question.

Alderman DeVries stated the question I have that I have for the Building Department head...there is now a new state law on the books which allows the Board of Mayor and Aldermen in certain cases to act in deference to the zoning in order to issue building permits.

Mr. Leon LaFreniere, Commissioner of Buildings, stated I believe that the statute you're referring to provides for the Board to authorize the issuance of permits on unaccepted streets, however, that's not the complete issue in this case.

Alderman DeVries interjected I understand that's not the complete issue. The letter that the family has put forward...if it is applicable under that new state statute is that letter going to be of any value to keep alive or is it your judgment that we can receive and file that if they have applicability under that statute, will you assist them in rewriting the proper words to make the proper request.

Mr. LaFreniere stated we'll definitely provide whatever assistance we can. I don't believe that the letter as it's structured provides...there's any value to keep it on record at this point.

Alderman DeVries stated I'm in concurrence we can receive and file that and thank you for letting me have that explained.

Alderman Roy moved to receive and file the request to overrule the decision of the Zoning Board of Adjustment. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

21. Communication from Richard Patterson, Jutras Signs and Flags, on behalf

of Moore's Discount Auto Sales, requesting a license to encroach a sign in airspace above the sidewalk right-of-way at 485 Elm Street.

Alderman Porter moved to refer the request to Building, Highway, Planning, Risk Management and City Solicitor for review and recommendation to the Board.

Alderman Smith duly seconded the motion.

Alderman Gatsas stated correct me if I'm wrong don't they have to go to the Zoning Board for a variance for a sign encroachment.

Mayor Baines called upon Mr. LaFreniere.

Mr. LaFreniere stated the Zoning Board has no jurisdiction over matters in the public right-of-way that would be the purview of this Board.

Alderman Gatsas stated a question for the Solicitor. Have we ever done this before?

City Solicitor Clark replied I believe once it has happened...I believe Henry's Auto Body sign was over the sidewalk prior to being torn down. Basically, it's an air rights lease we're going to have to draft.

Mayor Baines stated so it's sort of like the same issue with CMC.

City Solicitor Clark replied yes. It's the granting of rights in the air over the public way.

Mr. LaFreniere stated there are provisions in the Code of Ordinances for signs and encumbrances to project to the right-of-way in the form of projecting signs along

Elm Street off of buildings, awnings...that sort of thing, however, there is no specific provision that would permit the granting of a permit for such encumbrance on a free-standing device such as a free-standing sign. So, it is somewhat different...there is no mechanism in the ordinance by which we can edit or staff will grant this request.

Alderman Thibault stated when the building across the street was built there was an overhang over the sidewalk and it had to come to this Board...many years ago, 20 years ago maybe.

Alderman Roy stated a question for our Planning Director. It's my understanding with some of the Arena Overlay District guidelines that we're trying to limit LED message signs, is that correct?

Mr. MacKenzie replied there's some concern about large flashing signs that the City now in the Zoning Ordinance does have some limitations to LED signs in terms of how quickly it can turn over so it doesn't become a flashing sign and distract drivers.

Alderman Roy stated so you would be fine with this type of sign being put in that location.

Mayor Baines called for a vote on the motion to refer to staff. There being none opposed, the motion carried.

22. Communication from Linda Seabury, Executive Director of Big Brothers Big Sisters of Greater Manchester, requesting consideration by the City of donating a gift certificate or prize to be raffled at the 13th Annual Charity

Golf Tournament to be held on Thursday, June 2nd at Sky Meadow Country Club in Nashua.

Alderman O'Neil moved to refer the communication to Mayor Baines. Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

23. Ordinances:

“Amending Section 33.024, 33.025, & 33.026 (Ski/Aquatics Maintenance Worker) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024, 33.025, & 33.026 (WWTP Operator Trainee) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 39: Procurement Code of the Code of Ordinances of the City of Manchester by deleting Chapter 39 in its entirety and inserting a new Chapter 39: Procurement Code.”

“Amending Chapter 52: Sewers of the Code of Ordinances of the City of Manchester by amending Section 52.160 (A)(2), Sewer Rental Charges and Section 52.161 Septage Service Charge by increasing the user charges and septage service charges in the City of Manchester.”

“Amending Chapter 71: Snow Emergency Regulations, Section 71.03 and 71.99 of the Code of Ordinances of the City of Manchester increasing the penalties for violation of snow emergency winter parking.”

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to dispense with the reading by titles only of the ordinances.

These Ordinance having had their third and final reading by titles only, Alderman DeVries moved on passing same to be ordained. Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

NEW BUSINESS

Communication from Kevin Clougherty, Finance Officer advising of the receipt of \$400,000 from the State of New Hampshire for reimbursement of the acquisition of the Phillips Glenn property (I-93 Project).

Deputy City Clerk Johnson stated the funds have been deposited into a one-time revenue account and look for a motion to receive and file.

Alderman Roy moved to receive and file the communication. Alderman Smith duly seconded the motion.

Alderman Gatsas stated I know it's more than a pack of cigarettes, your Honor, but I just thought we'd have a conversation about it. The \$400,000...didn't that come from general fund dollars.

Mr. MacKenzie replied they were resources from that, \$100,000 was from SEPP funds which was Supplemental Environmental Program, \$40,000 was from a...actually it was a court-ordered amount related to a private development and the balance was transferred from the riverwalk program as a bond balance.

Alderman Gatsas stated wouldn't it make sense that those funds come back so that we could do something else other than stick them in a one-time account. I would think that those are City dollars that were in a bond account for the riverwalk.

Mr. MacKenzie stated we are making a recommendation to the CIP Committee at their next meeting because there are strings attached to those as reimbursement from projects.

Mayor Baines stated so it's going to go to the CIP Committee with a report back to the Board.

Alderman Gatsas stated but it was just said that they deposited it into the one-time account and I'll move to table it and not make the deposit.

Mayor Baines called upon Mr. Sherman.

Mr. Sherman stated what you don't want to do, Alderman, is just deposit it into the general fund and have it disappear. So, we put it in the one-time account so that as Mr. MacKenzie goes through the CIP process it can then be taken back out of that account and therefore appropriated to other purposes.

Alderman Gatsas stated we don't need two-thirds to take it out of there.

Mr. Sherman replied you don't if it's for a one-time type expenditure.

Mayor Baines stated what we could do is just refer the communication to the CIP Committee and then it could be determined what to do with it after that. Couldn't we do that?

Mr. Sherman stated we've deposited the check in the account. If the Aldermen decide or if there's a more appropriate place to put those funds we can clearly move them.

Mayor Baines stated why don't I ask the maker of the motion to withdraw the motion and I would recommend that that communication be referred to the CIP Committee.

Alderman Gatsas moved that the communication be referred to the Committee on Community Improvement. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

Communication from Alderman Forest submitting a draft ordinance relating to smoking at West Little League in Cullerot Park.

Alderman Forest stated I sent a memo out to my colleagues...the Board of Directors at the Manchester West Little League asked me a few months ago if there was anything they could do about making the Little League Park a no smoking area and I met with City Solicitor Clark and we came up with sort of an ordinance and what I did ask was that if we could do it and also if this Board could also give the power to Parks and Recreation to do it in other parks if other directors of boards wanted to do it. I have a draft here and would move that it be referred to both the Committees on Administration/Information Systems and Bills on Second Reading.

Deputy City Clerk Johnson stated it's my understanding that he would like the Committee on Administration to review it and report to the Committee on Bills on Second Reading so it doesn't have to come back to the Board again for referral to the Committee...that would be the proper procedure.

Alderman Forest moved to the Clerk's recommendation. Alderman Shea duly second the motion.

Alderman Shea stated I did mention to Armand that when we have ordinances we really approve the ordinance but when I discussed this with him I said how will

this ordinance be enforced and by whom and I think that when it is discussed by the administration there should be some notation as far as somebody having to enforce it. Like he mentioned that we have ordinances that pertain to other types of things and dogs and they run wild and nobody enforces it and pretty soon neighbors call...I'm not opposed to the ordinance, I think it's a good one and we should advocate no smoking but I think that there should be a discussion as to how this is going to be enforced. You're not going to ask the people who are in the Little Leagues or something to go over to a guy and say hey, no smoking...and the guy is going to say I'm going to smoke whether you like it or not and run into problems.

Alderman Forest stated there are some leagues right now that have put it in their league rules. Actually, they're doing it illegally...they are enforcing it, they have been for a little while and I know the League officers will enforce it but what this would do is if they really have problems with somebody then somebody could be called and like any other ordinance if they're violating it, they don't want to stop, they can get arrested.

Mayor Baines asked is there anything on the books about that right now?

City Solicitor Clark replied only Gill Stadium.

Mayor Baines stated oh that's why I thought it was in effect.

Alderman Lopez stated I think it's a good idea but I think that when the Committee on Administration meets that we include all of the Little Leagues because it's important that everybody...if we're going to make an ordinance let's make an ordinance for the entire City. We don't want to put Parks and Recreation Director policing something that he'll have no control over.

Mayor Baines stated I think it should be in all of those public places.

Alderman Gatsas stated does that mean golfers are not going to be allowed to smoke when they're golfing.

Alderman Lopez stated I know the problem being involved with Southwest Little League...people in the stands...sitting in the stands...it could be the standard policy for the City. It's a good idea...you don't like people blowing smoke in your face while you're watching a Little League game.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Alderman O'Neil stated I wish I could have gotten this out a little earlier when people were probably actually watching us but there is a Blood Drive this coming Saturday, May 7th from 7:30 AM to 12:30 PM up at the Blood Center on Reservoir Avenue in memory of a young man that passed away a few years ago, Jack Fallon, and encourage all to get out that are eligible to give blood.

Alderman Shea stated we did have a little blood letting tonight, I guess. All of the Aldermen were given this list from the lobbyist and there will be a meeting next Monday at 8:00 AM right here with the members of the NH House and Senate and everyone is invited.

Alderman Roy stated tomorrow evening at Webster School Auditorium there will be the Master Plan presentation for Stark Park on behalf of The Friends of Stark Park. This is a city-wide asset and I would encourage all of my colleagues and concerned constituents that would like to...the meeting is at Webster School in the auditorium and it will be at 7:00 PM.

Alderman Porter stated last year I had played golf one afternoon with Carol Johnson, it was a Saturday, and a couple of weeks later I was asked by one of the individuals at the clubhouse...he said when are you going to bring that woman over again to play and I'm thinking my wife plays...I asked well when...he said you know the one that runs the Aldermanic meetings.

There being no further business to come before the Board, on motion of Alderman Smith, duly seconded by Alderman O'Neil, it was voted to adjourn.

A True Record. Attest.

City Clerk